IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 11391 of 2004

Between:

A.Bikshapathy, S/o Muthaiah,
R/o Pulipalupula, Manugode Mandal, Nalgonda District

..... PETITIONER

AND

1 A.P.State Road Transport Corporation, represented by its Managing Director, Musheerabad, Hyderabad-20
2 The Divisional Manager, A.P.S.R.T.C. Secunderabad Division, Rathifule Bus Station, Secunderabad
3 The Depot Manager, A.P.S.R.T.C. Contonment Depot, Secunderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 2nd and 3rd respondents and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the order passed by the 3rd respondent in proceedings No.P2/1(4)/2003-CNT, dated 11-6-2003, deleting name of the petitioner from the Select List by alleging misconduct, without conducting any enquiry as illegal, unjust, contrary to law, arbitrary, in violation of principles of natural justice, in violation of mandatory provisions of Section 25-F of the Industrial Disputes Act and violative of Articles 14,16 and 21 of the Constitution of India, and grant all consequential benefits

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.K.HARINATH

The Court at the stage of admission Made the Following :

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 11391 of 2004

ORDER:

Heard both sides. At the request of the learned counsel appearing on both sides, the main writ petition, itself, is heard and disposed of.

The present writ petition is filed questioning the order passed by the 3rd respondent in proceedings No.P2/1(4)/2003-CNT, dated 11.6.2003 deleting the name of the petitioner from the approved list/select list of the drivers.

It is submitted by the learned counsel for the petitioner that due to Bronchitis Asthma, the petitioner could not attend to duties from 15.4.2003 and he reported to duty and submitted a medical certificate to that effect to the 3rd respondent, but the same was rejected. Thereupon, the petitioner preferred appeal before the 2nd respondent. But so far the 2nd respondent did not pass any orders. While so, the 3rd respondent issued show cause notice of deletion of his name from the approved/selected list of drivers. It is submitted that without giving sufficient time to submit his explanation, without considering the appeal preferred by him and without affording him an opportunity of being heard, the 3rd respondent passed the impugned order.

Learned counsel for the petitioner submitted that the question involved for adjudication in this writ petition is squarely covered by a

decision of this Court in *A. Hemalatha Vs. APSRTC* wherein it was held:

> "Therefore, it was imperative for the respondents to conduct an inquiry. It is also contended by the learned counsel for the respondents that the Corporation Rules do not contemplate an inquiry with respect to daily wage-workers. That might be so, but it is against the rules of natural justice to punish a person by creating a stigma for her, which would hurt her through out her life, without

even conducting an enquiry. Since inquiry has not been conducted and an order has been passed which creates a stigma, therefore, the order cannot sustain."

In the present case also, admittedly, no inquiry was conducted by the 3rd respondent before inflicting the punishment upon the petitioner, through the proceedings impugned herein.

Following the decision of this Court in the case of A. Hemalatha (1 supra) the proceedings impugned herein have to be set aside.

In the result, the writ petition is allowed setting aside the proceedings dated 11.6.2003 issued by the third respondent. However, it is made clear that this order will not preclude the respondents from taking disciplinary action, if any, against the petitioner as per law. In the circumstances no costs.

Dated: 07.07.2004

ASSISTANT REGISTRAR

Copy to:

1 The Managing Director, A.P.State Road Transport Corporation, Musheerabad, Hyderabad.

2 The Divisional Manager, A.P.S.R.T.C. Secunderabad Division,
Rathifule Bus Station, Secunderabad
3 The Depot Manager, A.P.S.R.T.C. Contonment Depot, Secunderabad

4. Two C.D. Copies.

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